In the High Court for the States of Punjab and Haryana, at Chandigarh.

C.W.P.No. 16423 of 2006
Decided on Dec 21,2006.

Ram Niwas and others --Petitioners

vs.

State of Haryana and others --Respondents.

Coram: Hon'ble Mr.Justice Jasbir Singh
Hon'ble Mr.Justice Pritam Pal

Present: Mr. J.P.Sharma,Advocate,for the petitioners

Mr. B.S.Rana,Addl.A.G.Haryana.

Mr.Y.P.Malik,Advocate,for respondent No.2.

Mr.O.P.Sharma,Advocate,for respondent No.3.

Jasbir Singh J:(Oral)

Reply file, is taken on record.

In this writ petition, challenge has been laid to charging of penal interest @ 17.5% per annum. We feel that similar controversy came before this Court in C.W.P.No. 4474 of 2006, which was disposed of on September 14,2006. Relevant portion of that order reads thus:-

"After notice, reply has been filed in this writ petition. At the time of arguments, counsel for the respondents has placed reliance upon document Annexure P-5, to say that the respondents are entitled to charge penal interest @ 17.5% on amount of instalments in case default is committed. To say so, further reliance has been placed upon the mortgage deed Annexure P-7.

With the assistance rendered by counsel for the

parties,we have gone through the documents on record and also relevant contents of the mortgage deed Annexure P-7. It is not in dispute that when schedule to repay the loan amount was fixed, interest @ 15.7% per annum was added in the amount of instalments to be paid. It is also not in dispute that against loan of Rs. 80,000/- up to the year 2002, the petitioners had paid more than Rs.1,70,000/-. If the interpretation given by the respondents is accepted, it would mean that in case of a default committed regarding payment of any instalment, the respondents will be entitled to charge interest @ 33% per annum. That will be too harsh and unreasonable. The petitioners are the poor persons. If the contents of the mortgage deed are read carefully, it obviously means that once default is committed,regarding payment of any instalment, the respondents are entitled to levy penal interest @ 2 ½ %, as the normal amount of interest, at the rate of 15.7% per annum, already stood incorporated in the amount of instalments".

This matter is squarely covered by ratio of the judgment , referred to above and is disposed of in the same terms as in that case.

(Jasbir Singh)
Judge

Dec 21,2006,
RR

(Pritam Pal)
Judge